

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re:) Chapter 11
)
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
)
Debtor.)

APPLICATION TO EMPLOY ROBERT M. FISHMAN AS MEDIATOR

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), by counsel, respectfully files this application (the "Application") and requests that the Court enter an order authorizing the Trustee to employ Robert M. Fishman as special mediator (the "Mediator") in this case to mediate the issue of the reasonableness of the proposed settlement with Fifth Third Bank as contained in the Plan¹ pursuant to the terms and conditions outlined on attached Exhibit A. This Application arises from the discussions among certain parties as ordered by the Court at the August 20, 2012 hearing. The purpose of the proposed mediation and protocols are more fully discussed in the *Trustee's Motion To Establish Mediation Protocol On The Proposed Plan And Disclosure Statement* [Docket No. 1407] and the order approving same entered September 16, 2012 [Docket No.1426]. In support of this Application, the Trustee respectfully represents the following:

1. The Trustee was appointed on December 27, 2010 pursuant to the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Dock. No. 102].
2. The Mediator is a member at the law firm of Shaw Gussis Fishman Glantz Wolfson & Towbin LLC, and is experienced in complex bankruptcies, having served as counsel

¹ The Trustee filed his Chapter 11 Plan of Liquidation ("Plan") and his Disclosure Statement with Regard to the Trustee's Chapter 11 Plan of Liquidation ("Disclosure Statement") on July 23, 2012 [Docket Nos. 1255 and 1256].

for trustees, debtors, creditors' and equity committees, secured and unsecured creditors, purchasers of assets, and litigants in adversary proceedings.

3. The Trustee selected the Mediator because the Mediator is experienced and is well-qualified to serve as a mediator.

4. The Trustee seeks authority to hire the Mediator at an hourly rate of \$650.00 and a total estimated cost of \$75,000.00 for fees and expenses which will be paid by the estate, all as more particularly outlined on attached Exhibit A.

5. Pursuant to the Verified Statement of Robert M. Fishman attached as Exhibit B, the Mediator is qualified to act as a mediator in this case and, except as disclosed by the Mediator, he does not hold or represent an interest adverse to the estate on the matters on which the Mediator is to be employed. The Trustee believes that the Mediator is therefore "disinterested," as that term is defined by the Bankruptcy Code.

6. To the extent the Mediator becomes aware of any adversity or conflict with proposed parties to the mediation, the Mediator will advise the Court and attempt to obtain all needed consents.

7. The Trustee believes the employment of the Mediator is in the best interests of this estate.

WHEREFORE, the Trustee prays that he be authorized to employ the Mediator to mediate the issue of the reasonableness of the proposed settlement with Fifth Third Bank as contained in the Plan, that he be authorized to pay the Mediator's fees incurred in this case, and that the Court grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

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CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2012, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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